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**Aluminum Casting & Engineering Co., Inc. and
United Electrical, Radio and Machine Workers
Union of America (UE).** Cases 30–CA–12855,
30–CA–12902, 30–CA–12943, 30–CA–12944, and
30–CA–12949

January 18, 2008

THIRD SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS LIEBMAN AND SCHAMBER

On April 9, 1999, the National Labor Relations Board issued a Decision and Order¹ directing the Respondent, Aluminum Casting and Engineering Company, Inc., to make its employees whole for any loss of earnings and other benefits they may have suffered as a result of the Respondent's unlawful failure to grant them a planned annual wage increase in 1995. On October 13, 2000, the United States Court of Appeals for the Seventh Circuit enforced the Board's decision in part and remanded it in part, with instructions for the Board to conform its Order with the court's opinion.² On May 16, 2001, the Board issued a Supplemental Decision and Order, substituting a new Order and notice for those previously issued on April 9, 1999.³

A controversy having arisen over the amount of backpay due the discriminatees, on May 11, 2007, the Regional Director for Region 30 issued an amended compliance specification.⁴ On June 4, 2007, the Respondent filed an answer admitting all of the allegations in the amended compliance specification.

¹ 328 NLRB 8.

² *NLRB v. Aluminum Casting & Engineering Co.*, 230 F.3d 286 (7th Cir. 2000).

³ 334 NLRB 1 (2001).

⁴ The Regional Director issued an initial compliance specification on April 30, 2003. Following a hearing on the initial compliance specification, Administrative Law Judge Bruce D. Rosenstein issued a Supplemental Decision on November 14, 2003, which adopted the compliance specification in large part, but rejected the compliance specification's allegations with regard to the backpay period. The judge found that the appropriate backpay period was limited to calendar year 1995 rather than extending from 1995 "until such time as the Respondent permanently applies the appropriate across-the-board wage increase to their hourly wages for the years 1996 through 2003."

On January 31, 2007, in response to the parties' exceptions to the judge's Supplemental Decision, the Board issued a Second Supplemental Decision and Order in this proceeding. (349 NLRB No. 18.) The Board affirmed the judge's finding that the backpay period for the discriminatees should be limited to calendar year 1995 and ordered the Regional Director to amend the compliance specification accordingly. The amended compliance specification that issued on May 11, 2007, reflects this change.

Thereafter, the parties entered into a Stipulation and Amendment to the Amended Compliance Specification (Stipulation). In the Stipulation, the parties noted that certain hours worked by the discriminatees at the end of calendar year 1995 were not accounted for in the amended compliance specification. The parties agreed to correct this omission as indicated in two attachments to the Stipulation. The Regional Director approved the parties' Stipulation on September 20, 2007.⁵

On October 1, 2007, the General Counsel filed a Motion for Summary Judgment with the Board. On October 11, 2007, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted.

The Respondent and the Charging Party filed responses to the General Counsel's motion on October 9 and 15, 2007, respectively. The Respondent requests that the Board grant the motion, asserting that the allegations in the motion "are all correct and accurate." The Charging Party similarly acknowledges that the allegations in the motion are correct, but takes issue with the Board's underlying decision to limit the discriminatees' backpay period. The Charging Party accordingly requests that the Board deny the motion, modify its earlier decision, and find that the backpay period in this case extends from 1995 to the present.⁶

On the entire record in this case, the National Labor Relations Board⁷ makes the following

Ruling on the Motion for Summary Judgment

According to the uncontroverted allegations of the General Counsel's Motion for Summary Judgment, the Respondent owes backpay to the discriminatees in the amounts specified in the amended compliance specification as further amended by the parties' Stipulation. In the absence of any dispute as to the accuracy of those

⁵ In a letter dated September 13, 2007, the Charging Party clarified its position that, in signing the Stipulation, it agreed only to the accuracy of the backpay calculations therein and did not waive its right to challenge the underlying Board decision with regard to the backpay period.

⁶ On October 22, 2007, the Charging Party filed an "Opposition to Motion for Summary Judgment" with the Board. That document is essentially identical to the Charging Party's October 15, 2007 response to the Motion for Summary Judgment and therefore does not warrant separate discussion.

⁷ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Members Liebman and Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

backpay amounts, we grant the General Counsel's motion and find the Respondent liable for backpay as alleged.

ORDER

The National Labor Relations Board orders that the Respondent, Aluminum Casting & Engineering Company, Inc., Milwaukee, Wisconsin, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest to be computed in the manner set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and State laws:

Name	Identification No.	Amount
Dorothy Adams	1188	\$430.45
Larry D. Adams	444	\$552.65
Allen Albino	1427	\$40.75
H. Aparicio	559	\$136.35
Alegria		
David Alexander	731	\$197.41
John J. Alonzo	605	\$401.41
Felipe Alvarez	755	\$493.23
Jose Alvarez	1060	\$144.52
Jose Alvarez	447	\$261.80
Isaac Apau	281	\$67.40
Jose Aquilar	1028	\$331.85
Jose Aravjo	753	\$441.67
Jesus Arce	526	\$404.27
Leovardo Arenas	452	\$102.10
Alfonso Arrieta	1170	\$423.82
Amparo Avila	1180	\$119.65
Miguel Avila	902	\$144.99
Carlos Azurdia	1256	\$37.65
Bruce Banaszak	1447	\$42.79
Crelensiano	652	\$141.05
Barragan		
Jaime Barron	852	\$398.03
Robert Bashterash	364	\$426.83
Gary Beierle	1306	\$502.88
Anthony Beles	971	\$109.48
Earl E. Bentley	418	\$373.43
John Bentley	1071	\$428.32
Julio Bergara	443	\$42.41
Eraclio Bernal	952	\$260.67
Linda Bolden	1024	\$454.04
Eddie Booker	316	\$400.71
Tony Bowen	205	\$411.81
Kevin Brasile	317	\$38.37

Danny Brown	877	\$516.83
Scott Brown	210	\$41.24
Gregory Burba	1277	\$39.09
Michael Burdette	870	\$103.32
Javier Cabrales	1033	\$52.50
Ubaldo Calderon	719	\$449.91
Jorge Campos	107	\$39.85
Manuel Carlos	1111	\$126.10
Tronnie Carr	800	\$484.15
Angel Cart	864	\$417.03
agena		
Brenda Kay	878	\$447.05
Carter		
Richard Casper	873	\$438.22
Mariano Castro	385	\$81.58
Samuel Castro	622	\$290.44
Orlando Chacon, Jr.	110	\$428.28
Noah Chambliss	1426	\$3.30
Roberto Chapa	871	\$414.32
Andres Charriez	869	\$50.76
David Clark	1284	\$396.43
Jerry Clark	828	\$139.76
Robert Clark	276	\$10.04
Angel Claudio	401	\$147.22
Jerry Glen	587	\$414.31
Coleman		
Chester Collier	783	\$532.53
Marta Colon	1258	\$410.60
Francisco Coronado	953	\$403.97
Jose Coronado	1084	\$421.38
Hector Correa	1143	\$122.40
Thomas Corstvet II	791	\$511.44
Aaron Crosby	383	\$25.13
Joe Crossley	180	\$294.40
Terri Cruvello	777	\$82.96
Gloria M. Cuta	372	\$509.22
Brian Culver	1270	\$474.92
Stanley Cunningham	307	\$409.63
Michael E. Czappa	404	\$393.03
Greg Dalton	967	\$504.66
Jesus Delacruz	1052	\$400.19
Ramon Delgado	601	\$501.70
Christopher De Silva	402	\$412.28

Carlos S. Diaz	174	\$123.45	Benito Garcia	445	\$418.74
Tommie	135	\$7.90	Jesus Garcia	1250	\$192.70
Dickerson			Norberto Garcia	665	\$341.75
Michael Dion	830	\$421.12	Rogelio Garcia	990	\$103.40
isio			Victor Garcia	898	\$439.79
Dennis Drews	1190	\$47.98	Samuel R.	663	\$470.73
Andrew Elem	260	\$100.80	Gardison		
Aurelio Escobar	184	\$490.18	Tillman Garth	1329	\$461.80
Manuel Espino	1098	\$192.25	Alex Garza	773	\$148.89
Norberto	1002	\$130.99	Daniel Garza	1368	\$418.52
Espinoza			Arthur Gee	119	\$436.29
Pedro Esqueda-	1408	\$44.61	Julius Glenn	1265	\$408.93
Ruiz			Alfredo Gon	142	\$30.06
Jose Estrada	112	\$379.65	zalez		
Marcos Estrada	348	\$5.54	Antonio Gon	993	\$441.34
Nassar Farah	629	\$433.21	zalez		
Anthony Fayne	881	\$402.57	Bruno Gonzalez	1020	\$448.72
Edwin Feliciano	162	\$110.97	Jesusa Gonzalez	122	\$519.58
Nathaniel Fer	724	\$81.74	Luis Gonzalez	262	\$6.40
guson			Manuel Gon	1459	\$55.10
Humberto Fer	166	\$270.30	zalez		
nandez			Rafael Gonzalez	842	\$385.83
Rogelia Fernan	722	\$443.68	Lana Griffin	352	\$177.23
dez			Eddie Groves	350	\$385.27
Artemio	578	\$426.90	Gary S. Gruen	876	\$421.32
Ferreira			weller		
Jose Ferrer	723	\$151.25	Lawrence Guer	860	\$17.90
Abraham Figue	624	\$415.75	rero		
roa			Juan Gutierrez	947	\$405.68
Richard Finch	161	\$27.30	Salvador	240	\$449.83
Jaurdon Fisher	1079	\$28.37	Gutierrez		
Gustavo Floren	1273	\$255.93	Miguel Guzman	326	\$473.70
tino			Jack Hager	563	\$27.71
Stephen Flores	512	\$410.88	Larry Harder	242	\$16.11
Miguel Fonseca	746	\$482.59	Joe Hardin	1022	\$380.53
Cleophus Fox,	515	\$300.29	James Harris	987	\$234.23
Jr.			Ronald Harris	465	\$103.55
Dean A. Froem	375	\$560.35	Jerry L. Hart	373	\$268.08
ming			man		
Brian Gabel	1217	\$98.45	Allen Hastings	362	\$463.62
bauer			Brian Held	509	\$501.85
George Gabel	254	\$464.69	Allen H. Hen	586	\$351.15
bauer			drychowski		
Raymond Gabik	1234	\$304.47	Jorge Hernan	111	\$492.85
Florentino	123	\$483.82	dez		
Galindo			Jose Luis Her	640	\$106.80
Moises Gallegos	367	\$44.47	nandez		
Gene Gallonski	926	\$412.15	Juan Hernandez	774	\$261.66
Enrique F.	109	\$1.95	Mario Hernan	221	\$48.75
Galvan			dez		
Steve Gamroth	324	\$424.25	Nelson Hernan	390	\$227.36
Angel Garcia	1424	\$38.45	dez		

DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

Pamela Herwig	1198	\$159.22	Miguel Deleon	942	\$430.26
Emmanuel Hill	988	\$74.08	Lopez		
Jimmie Hoard	103	\$489.94	Rene B. Lopez	218	\$411.37
Timothy Holl	420	\$46.01	Robert Lopez	648	\$383.83
Roosevelt Holt	1050	\$67.28	William Lopez	1291	\$502.57
Jane E. Hoyt	1259	\$461.17	Phyllis Luckett	319	\$38.85
Nehemias Huer tas	649	\$52.07	Reinaldo	1215	\$144.85
Robert Jackson	303	\$8.74	Macate		
Victor Jaramillo	331	\$220.56	Salvador Mad	151	\$283.55
Miguel Jimenez	798	\$375.50	rigal		
Salvador	948	\$441.27	Anacleto Man	702	\$401.85
Jimenez			cha, Jr.		
Peter Jiru	695	\$38.68	Juan Marroquin	807	\$387.60
David W. John son	384	\$508.21	Mark Martin	708	\$444.56
J.T. Johnson	707	\$523.86	Heriberto B.	1269	\$502.05
Jacqueline John son	345	\$415.19	Martinez		
Melvin Jones	901	\$1.60	Jesus Martinez	834	\$357.39
David Juraso vich	196	\$378.52	Nereo Martinez	1089	\$352.53
Jerome Kasten holz	156	\$426.36	Rafael Martinez	172	\$81.90
Martha Kelley	475	\$398.95	Ricardo Marti	422	\$2.80
James Kennedy	115	\$386.61	nez		
Greg Kerner	1027	\$410.36	Ricardo Marti	1246	\$415.14
Keith Kriegs man	121	\$498.21	nez		
Steven Krueger	1005	\$126.12	Victor Martinez	1091	\$12.80
Beth A. Krum now	277	\$527.69	Akram Massad	1041	\$424.24
Kris A. Krum now	933	\$465.97	Alfredo Matos	120	\$179.20
Joseph Kubasik	1072	\$119.78	William Matos	846	\$99.21
Tammy Kuehl	399	\$17.02	David E.	520	\$49.30
Bipin Kumar	571	\$447.61	McNamer		
Juan Laboy	1174	\$431.30	Anselmo Me	1182	\$442.55
Heinz A. Lang ner	607	\$244.88	dina		
Hugo Lares	596	\$397.33	Ricardo Melen	562	\$416.08
Roy Lattimore	725	\$495.90	dre		
Eugene Lawson	810	\$166.30	Cain Mendez	1333	\$443.08
Israel Lechuga	726	\$427.93	Ismael Mendoza	823	\$135.88
Joel Lechuga	1116	\$415.88	Martin Mendoza	1209	\$386.50
Jose Luis Le dezma	714	\$438.68	Jose Mercado	979	\$43.40
Carl Lee	1127	\$235.16	James C.	570	\$403.43
Darian Lee	691	\$376.07	Micheau		
Francisco Lopez	287	\$313.15	Charles Miller	382	\$25.45
Juan Lopez	646	\$402.88	Christopher	1249	\$24.59
Melchor Lopez	591	\$470.53	Mitchell		
			Jorge Montanez	280	\$154.80
			Juan Montene gro	936	\$425.75
			Alvis Moor	644	\$419.63
			William J. Mor ris	874	\$404.30
			Manuel Mota	1004	\$399.54
			Pheng Moua	1013	\$62.80
			Adolfo Munoz	283	\$15.59
			Eudoro Munoz	758	\$401.43

Sergio Munoz	1048	\$307.13	Saul Ramos	588	\$441.06
Leonard Murdock	128	\$1.60	Earnest Rembert, Jr.	410	\$465.12
Santiago Navarrete	152	\$146.48	Candido Reyes	1208	\$430.75
Cristian Navarro	1223	\$411.53	Herodes Reyes	419	\$465.95
Jose Naveja	1414	\$19.57	Hubert Riley	312	\$41.47
Angel Negron	338	\$39.85	Raul Rios	407	\$374.96
Eric Nelson	886	\$376.12	Aaron Ritzow	266	\$397.44
Debra Neumann	293	\$15.59	Justino Rivas	771	\$425.69
Lawrence Neumann	705	\$48.28	Daniel Rivera	895	\$91.02
Jesus Nieves	992	\$422.47	Javier Robelo	270	\$43.99
Arturo Oliva	268	\$537.52	Otto Roberts	1304	\$410.26
Armando Olmos	904	\$398.29	Charles Robinette	636	\$439.41
Jose Ornelas	982	\$423.26	Geraldine Robinette	793	\$451.40
Rogelio Ornelas	1431	\$72.09	Edgar Roche	543	\$497.17
Michael Pampuch	1176	\$465.45	Dennis A. Rochefort	683	\$662.08
Frederico Parnamo	1363	\$54.72	Norman Roche	540	\$611.18
Ferman Payne	889	\$221.26	Charles A. Rodgers	741	\$434.75
Frederico Pena	1398	\$45.91	Claudio Rodriguez	776	\$472.56
Guadalupe Perez	974	\$403.91	Eduardo Rodriguez	954	\$391.70
Jose Perez	202	\$42.00	Juan Rodriguez	245	\$374.55
Juan Perez	981	\$70.70	Martin Rodriguez	1117	\$192.30
Gerald Peters	170	\$367.37	Edwardo Rojas	341	\$51.03
Froylan Pichardo	1192	\$427.90	Miguel Rosa	204	\$377.91
Michael Piedt	351	\$44.58	Pedro Rosales	188	\$404.82
David J. Pike III	621	\$508.64	Roberto Rosales	395	\$41.89
Francisco Quiroz	912	\$474.65	Jesus Falcon	524	\$187.10
Pedro Quiroz	1114	\$484.27	Rosario		
Jeffery Raedel	153	\$24.25	Hector Rosas	160	\$139.10
Felix Ramirez	1350	\$391.30	Regulo B. Ruiz	114	\$401.60
Francisco Ramirez	169	\$40.88	Jose Saguén	400	\$417.20
J. Santos Ramirez	977	\$435.65	Euzebio Salazar	927	\$127.40
Jeronimo Ramirez	368	\$44.97	Luis Salgado	568	\$126.50
Jose Ramirez	679	\$124.50	Guadalupe Salinas	433	\$26.83
Luis Ramirez	304	\$18.17	Johnny Samarra	955	\$433.08
Luis Ramirez	661	\$326.70	Hugo Sanchez	959	\$295.63
Manuel Ramirez	732	\$419.03	Lorenzo Sanchez	462	\$391.99
Marcos Ramirez	167	\$16.00	Kenith Sandifer	717	\$362.20
Salvador Ramirez	427	\$21.20	Ramon Sandoval	1067	\$117.65
Fernando Ramos	1349	\$413.69	Ricardo	630	\$474.00

DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

Sandoval			Samson Tillis	1035	\$450.53
Antonio Santana	397	\$41.55	Rodd Tooke	709	\$146.76
Francisco Santi	1087	\$6.90	Reyes Trinidad	574	\$480.95
ago			Charles Tripp	132	\$396.30
Jose Santiago	1196	\$245.83	Tim A. Tutaj	989	\$328.52
Miguel Santiago	742	\$118.40	Tony Tyra	437	\$7.45
Gabriel Santos	639	\$397.55	Norberto Valdes	934	\$442.76
Jose Sarmiento	965	\$436.00	Felipe Valdes	1130	\$383.28
Khamphong	837	\$443.58	Florencio	634	\$418.29
Sayavongsa			Vallejo		
Daniel Schnee	1422	\$20.00	Luis Felipe	1001	\$415.85
berger			Valles		
Camille	784	\$485.23	Victor Valles	155	\$447.80
Schwartz			Bee Vang	1436	\$39.60
Jeffrey S.	1404	\$441.09	Manuel Varela	388	\$365.75
Schwartz			Jose Vargas	1006	\$432.09
Julio Seda	131	\$427.35	Sergio Vasquez	966	\$428.91
Ignacio Sepul	482	\$399.50	Basilio Vela	359	\$42.85
veda			Jesus Velasquez	1153	\$465.02
Javier Serna	975	\$410.40	Eliezer Ve	198	\$415.38
Terrance Shaw	1169	\$400.80	lazquez		
Angel Silva	415	\$27.60	Pedro Ve	1203	\$292.74
Kim Allen Sjol	865	\$433.33	lazquez		
und			Reinaldo Vellon	389	\$57.60
Ahmad Smith	259	\$452.03	Alfredo Vigil	754	\$326.51
Calvin Smith	278	\$20.16	Ralph	453	\$38.89
Juanita Smith	715	\$535.73	Villanueva		
Larry Smith	718	\$40.38	Raul Villanueva	1423	\$39.30
Thomas Smith	782	\$428.34	Van Vuong	956	\$31.35
Pedro Solano	623	\$336.95	Winifred War	814	\$383.44
Jorge Solis	1128	\$29.25	ner		
Gregory Solo	1235	\$421.71	Ruth Mae Wat	461	\$260.75
mon			son		
Miguel Sotelo	597	\$451.73	James P. Weber	346	\$550.72
Jose Soto	672	\$399.73	Robert Wet	347	\$510.02
Pablo L. Soto	392	\$516.11	tengel		
Lenis Sowell	688	\$82.60	Brenda Wil	339	\$225.62
Carrie Steven-	762	\$419.24	liams		
son			Carl A. Wil	264	\$404.23
Ronald Stoltz	1053	\$25.25	liams		
Aaron Stro	295	\$65.35	Melvin Wil	379	\$369.80
hbusch			liams		
Susan Struck	727	\$107.76	Theodore Wil	847	\$59.87
Miguel Suarez	222	\$402.55	liams		
Regino Suarez	323	\$457.08	Jeff Wolk	315	\$347.18
Stanley Sudol	236	\$40.85	Paul J. Wood	177	\$438.03
Michael Susedik	301	\$982.68	Raleigh Wright	438	\$449.03
Charles Tardy	435	\$454.71	Fong Xiong	626	\$49.45
Chao Thao	1228	\$356.13	Kao Xiong	1012	\$352.27
Rosia Lee	1229	\$401.64	Vang Xiong	566	\$120.90
Thicklen					
Petrie Tillier	1452	\$15.02			
			TOTAL		\$109,873.28

Dated, Washington, D.C. January 18, 2008

Wilma B. Liebman, Member

Peter C. Schaumber, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD